

Wednesday, August 6, 2003

The Board met at its offices at 450 N Street, Sacramento, at 10:25 a.m., with Ms. Migden, Chairwoman, Mr. Parrish, Vice Chairman, Mr. Leonard, Mr. Chiang and Mr. Westly present.

SALES AND USE TAX APPEALS HEARINGS

Vantagemed Corp., 165745

7-1-98 to 6-30-01, \$11,594.00 Tax

For Petitioner:

Appearance Waived

For Sales and Use Tax Department:

Randy Ferris, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner properly reduced the amount of tax it owed on its sales and use tax return for the first quarter 1999 for an alleged approximate \$11,000 overpayment made on its first quarter 1998 sales and use tax return, or alternatively, whether petitioner filed a timely claim for refund for the alleged overpayment.

Action: Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

10,000 RV Sales, Inc., 88391, 88392

1-1-93 to 9-30-96, \$00.00 Tax, \$00.00 Failure to File Penalty

7-1-97 to 12-31-97, \$28,544.00 Tax

For Petitioner:

Appearance Waived

For Sales and Use Tax Department:

Bruce Emard, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner qualifies as a successor to Trailer World.

Whether petitioner's liability is limited to an amount equal to the net cash petitioner paid to Trailer World for the business.

Action: Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Westly voting yes, Mr. Parrish abstaining, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Robert Van Briggie, 184855

7-1-98 to 6-30-01, \$26,560.02 Tax

For Petitioner:

Appearance Waived

For Sales and Use Tax Department:

Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the evidence shows that the cost accountability test overstates petitioner's liability.

Action: Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

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SPECIAL TAXES APPEALS HEARINGS

Technichem, Inc., 186397, 127702

1-1-00 to 12-31-00, \$2,748.50 Fee, \$00.00 Finality Penalty

1-1-99 to 12-31-02, \$14,567.05 Claim for Refund

For Petitioner: Mark Ng, Chairman

For Property and Special Taxes Department: Judy Nelson, Tax Counsel

For Department of Toxic Substances Control: Nancy J. Long, Staff Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner is required to pay the facility fees.

Whether the late payment penalties should be deleted.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

MV Transportation, Inc., 136040, 136141, 136097

10-1-97 to 6-30-00, \$191,984.58 Tax

10-1-97 to 6-30-00, \$16,273.76 Tax

10-1-97 to 6-30-00, \$193,673.58 Claim for Refund

For Petitioner: Roburt J. Waldow, Attorney

Feysan Lodde, President

John Andrew Biard, General Counsel

For Property and Special Taxes Department: Judy Nelson, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner's contract bus operation qualifies for the exemption from diesel fuel tax as an exempt bus operation.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

LEGAL APPEALS MATTERS, ADJUDICATORY

Silverstream Software, Inc., 149753

1-1-98 to 12-31-00, \$00.00 Tax, \$18,207.54 Penalty

Considered by the Board: Hearing Notice Sent – No Response

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

Action: Mr. Parrish moved to cancel the negligence penalties, otherwise redetermine the petition. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon motion of Ms. Migden, seconded by Mr. Chiang and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

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Seiniger Advertising, Inc., 41251
7-1-98 to 9-30-98, \$671,740.25 Tax, \$00.00 Penalty
Considered by the Board: June 10, 2003
Action: The Board took no action.

Mr. Chiang stated that he would not participate in the matters of *LSI Logic Corporation, 142330 and Cypress Semiconductor Corporation, 173287*, in accordance with Government Code section 87105, and left the Boardroom.

LSI Logic Corporation, 142330
1-1-96 to 12-31-96, \$3,895,018.00 Claim for Refund
Considered by the Board: June 25, 2003
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and duly carried, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden voting no, Mr. Chiang absent and not participating in accordance with Government Code section 87105, Mr. Westly not participating, the Board ordered that the claim be granted.

Cypress Semiconductor Corporation, 173287
1-1-00 to 12-31-00, \$926,653.00 Claim for Refund
Considered by the Board: June 25, 2003
Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.
Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and duly carried, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden voting no, Mr. Chiang absent and not participating in accordance with Government Code section 87105, Mr. Westly not participating, the Board ordered that the claim be granted.

Mr. Chiang returned to the Boardroom.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY

Gilbert Hansen, 186455
1999, \$3,211.00 Assessment
Considered by the Board: July 9, 2003
Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.
Action: Upon motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board and imposed a \$2,500.00 frivolous appeal penalty.

Mark E. Stamos, 167885
1999, \$1,777.72 Claim for Refund
Considered by the Board: July 9, 2003

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Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board and imposed a \$2,500.00 frivolous appeal penalty.

Ronald J. Stucker, 186955

1998, \$2,289.00 Tax, \$572.25 Late Filing Penalty

Considered by the Board: July 9, 2003

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Chiang and Mr. Westly voting yes, the Board adopted a decision reversing the action of the Franchise Tax Board.

Conopco, Inc., 129732

1989, \$5,326,302.00 Claim for Refund

1990, \$6,718,361.00 Claim for Refund

1991, \$5,465,259.00 Claim for Refund

Indopco, Inc., 129739

1989, \$1.00 or more Claim for Refund

1990, \$1.00 or more Claim for Refund

1991, \$1.00 or more Claim for Refund

Sequoia-Turner Corp., 129741

1989, \$1.00 or more Claim for Refund

1990, \$1.00 or more Claim for Refund

1991, \$1.00 or more Claim for Refund

Considered by the Board: June 25, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Ms. Migden moved to adopt a decision which modified the action of the Franchise Tax Board as recommended by staff. Mr. Parrish made a substitute motion that the appellants are unitary with one another and with UNUS, but they are not unitary with any foreign Uniliver affiliate, only domestic are unitary. The substitute motion was seconded by Mr. Leonard and duly carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, Ms. Migden voting no.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, ADJUDICATORY

Lawrence E. Ross, 194227

2001, \$240.00 Claim for Credit

Considered by the Board: June 25, 2003

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

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Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

Joel M. Weiner, 204146

2001, \$1.00 or more Claim for Credit

Considered by the Board: June 25, 2003

Contribution Disclosures pursuant to Government Code section 15626: No contribution disclosure forms were filed.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Santa Ynez Band of Mission Indians, 37763.*

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board made the following orders:

David J. Pedroli, 151696

11-19-99, \$6,665.91 Tax, \$666.59 Failure to File Penalty

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Santa Ynez Band of Mission Indians, 37763

1-1-95 to 6-30-98, \$350,964.22 Claim for Refund

Action: The Board took no action.

Coast Corporation, 61746

Philip K. Hwang, 61747

5-1-98 to 6-30-99, \$76,948.70 Tax, \$7,074.72 Negligence Penalty

1-1-96 to 4-30-98, \$129,704.59 Tax, \$12,970.49 Negligence Penalty

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Fondas X. Taoussanis, 167413

4-1-98 to 1-31-02, \$7,542.45 Tax, \$00.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

Dolores Padilla Reyes, 151012

10-1-97 to 9-30-00, \$00.00 Tax, \$00.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

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CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matters: *Maryanne Avila, 192141* and *Hernan A. Jacobo, 172837*.

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Maryanne Avila, 192141

1998, \$ 160.00 Tax, \$40.00 Penalty

Action: The Board took no action.

Thomas M. and Ethel Ayako Bond, 195789

1998, \$861.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Brenon Daly, 198872

1998, \$1.00 or more Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Lilia M. Delos Reyes, 207798

2000, \$534.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Mary Fairwell, 202278

1998, \$299.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Luisa Garmsen, 202282

2000, \$314.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Larry Howard and Claudia L. Gassin, 203451

1999, \$506.99 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Vaishali Ghiya, 202276

1998, \$46.78 Claim for Refund

Action: Sustain the modified action with concession by the Franchise Tax Board.

Roger and Penny Gilbert, 202273

1989, \$1,012.83 Assessment

Action: Sustain the action of the Franchise Tax Board.

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Ray A. Griffin, 198674

1998, \$1.00 or more Assessment

Action: Sustain the modified action with concession by the Franchise Tax Board.

William R. Hunter, 182581

1995, \$1,385.00 Assessment

Action: Sustain the action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

JoAnn P. Innes, 195319

1999, \$1,140.98 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Interactive Business Channel, Inc., 183471

1999, \$23,709.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Hernan A. Jacobo, 172837

1999, \$1,705.00 Tax, \$426.25 Late Filing and \$426.25 Notice and Demand Penalties

Action: The Board took no action.

Robert A., Jr., and Jolinda Johnston, 183396

1994, \$3,117.00 Tax, \$647.75 Late Filing and \$561.05 Accuracy Related Penalties

1995, \$1,798.00 Tax, \$449.50 Late Filing and \$359.60 Accuracy Related Penalties Penalty

Action: Sustain the action of the Franchise Tax Board.

Rachael Kanterman, 195156

1999, \$4,032.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

William, Jr., and Nancy Eleanor Lyas, 107086

1995, \$1,096.00 Tax, \$26.00 Late Filing Penalty

1996, \$1,417.00 Tax

Action: Sustain the action of the Franchise Tax Board.

Ruthie J. and John R. Piper, 212358

1998, \$524.00 Assessment

Action: Modify the action of the Franchise Tax Board.

Michael Joseph Saliba, 106177

1998, \$1,536.00 Tax, \$384.00 Late Filing Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

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Belva Jeane Strange, 174066

1996, \$18,317.00 Tax, \$3,663.40 Accuracy Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Hoang N. Tran and Kim Vu, 188241

1997, \$1,253.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

William Turner, 198631

1997, \$1.00 or more Assessment

Action: Sustain the action of the Franchise Tax Board.

Carrie L. Wilkinson, 186945

1997, \$433.97 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Jerry J. Couchman, 173715

1999, \$2,133.00 Tax, \$533.25 Penalty

Action: Deny the petition for rehearing.

Marcus and Gisella Del Frate, 174602

1997, \$2,662.83 Claim for Refund

Action: Deny the petition for rehearing.

Joseph A. Drongoski, 79191

1996, \$17,173.00 Assessment

Action: Deny the petition for rehearing.

William Alan Sobel, A Law Corporation, 129920

1994, \$4,000.00 Claim for Refund

Action: Deny the petition for rehearing.

Ms. Mandel entered the Boardroom on behalf of Mr. Westly in accordance with Government Code section 7.9.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

The Board deferred consideration of the following matter: *Michael E. Mitchell, 213096.*

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

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Sonia Antselovich, 198460

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Zoya Baglayeva, 198477

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Merilyne Frisch, 201734

2002, \$364.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Rachel Geller, 198539

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Johnny Gilbert, 203425

2002, \$345.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Abram Gonopolsky, 198499

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Nathaniel Gutierrez, 208281

2001, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Furman Hardy, 203087

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Nancy Howard, 197583

2000, \$340.75 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Lillie L. Jackson, 185774

2001, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Boris Krasnov, 198493

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

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Raya Mikhlina, 198502

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Michael E. Mitchell, 213096

2002, \$1.00 or more Claim for Credit

Action: The Board took no action.

Curtis Morissette, 212617

2000, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Varvara Nazaretyan, 202795

2002, \$72.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Charles Scott Riley, Jr., 192992

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Donald A. Ritchie, 209869

2001, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Sofia Rogova, 198472

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Alexandra Rudnitskaya, 198500

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Auguste M. Scaife, 194904

2002, \$347.50 Claim for Credit

Action: Modify the action of the Franchise Tax Board.

Gretel Sessing, 203424

1999, \$1.00 or more Claim for Credit

Action: Reverse the action of the Franchise Tax Board.

Ruby Slagle, 197581

2002, \$347.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

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Ester Spektor, 198463

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Jose Luis Vela, 190758

2002, \$265.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Exzemina Williams, 197740

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

SALES AND USE TAX MATTERS, REDETERMINATIONS, AND DENIALS OF CLAIMS FOR REFUND, CONSENT

The Board deferred consideration of the following matter: *Reebok International Ltd., 168214.*

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, upon a single motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Chiang not participating in accordance with Government Code section 87105 on *Mattel, Inc., 114424*, the Board made the following orders:

Mattel, Inc., 114424

1-1-96 to 12-31-98, \$413,621.54

Action: Approve the redetermination as recommended by staff. Mr. Chiang not participating in accordance with Government Code section 87105.

Mediq/PRN Life Support Services, 144841

7-1-98 to 1-23-01, \$92,826.05

Action: Approve the redetermination as recommended by staff.

Eric John Bledsoe, 198985

7-1-98 to 12-31-01, \$70,416.62

Action: Approve the redetermination as recommended by staff.

James S. Harp, 185991

4-1-99 to 12-31-01, \$60,059.13

Action: Approve the redetermination as recommended by staff.

Graham-Field, Inc., 198158

1-1-98 to 12-31-00, \$74,048.58

Action: Approve the redetermination as recommended by staff.

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Kazoo, Inc., 185791

10-1-98 to 9-30-01, \$114,043.60

Action: Approve the redetermination as recommended by staff.

Igloo Products Corporation, 203819

1-1-99 to 12-31-01, \$110,761.79

Action: Approve the redetermination as recommended by staff.

Reebok International Ltd., 168214

10-1-96 to 12-31-99, \$634,081.73

Action: The Board took no action.

Retail Resources LP, 181653

10-1-98 to 12-31-99, \$55,563.45

Action: Approve the redetermination as recommended by staff.

Raytheon Company, 168913

1-1-90 to 12-31-94, \$387,529.13

Action: Approve the redetermination as recommended by staff.

Marshalls of MA, Inc., 145473

10-1-97 to 12-31-99, \$164,682.26

Action: Approve the redetermination as recommended by staff.

Edward Jack Sandel, 206934

7-1-89 to 6-30-92, \$79,376.76

Action: Approve the denial of claim for refund as recommended by staff.

North Supply Company, 207819

10-1-99 to 12-31-02, \$1,375,000.00

Action: Approve the denial of claim for refund as recommended by staff.

Xerox Corporation, 144965

7-1-00 to 9-30-00, \$105,000.00

Action: Approve the denial of claim for refund as recommended by staff.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

The Board deferred consideration of the following matters: *Regents of the University of California, 92868* and *Siemens Info & Commctn Mobile LLC, 87589*.

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With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish not participating in accordance with Government Code section 87105, Ms. Mandel not participating in *Salomon Smith Barney, Inc., 218453*, the Board made the following orders:

Appleway Equipment Leasing, Inc., 221189

10-1-01 to 12-31-02, \$110,883.01

Action: Approve the credit and cancellation as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Comdisco Healthcare Group, Inc., 222539

7-1-98 to 7-15-01, \$184,382.71

Action: Approve the credit and cancellation as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

James Mitchell, 222053

10-1-99 to 12-31-02, \$52,330.36

Action: Approve the credit and cancellation as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Bankvest Capital Corporation, 220945

7-1-96 to 1-23-00, \$768,872.77

Action: Approve the credit and cancellation as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Thermo Andersen, Inc., 187837

7-1-98 to 6-30-01, \$142,803.47

Action: Approve the credit and cancellation as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Williamson-Dickie Mfg. Company, 221460

7-1-00 to 6-30-01, \$83,570.59

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Apollo Ultrapure Water System, Inc., 194658

7-1-01 to 9-30-01, \$58,806.98

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

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Pacific Capital Bank, N.A., 164177

7-1-98 to 12-31-01, \$87,654.55

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Decore-ative Specialties, 208339

4-1-02 to 6-30-02, \$254,580.68

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Chevron U.S.A., Inc., 220172

1-1-97 to 12-31-98, \$86,982.27

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Lucky Stores, Inc., 37066

11-2-97 to 7-31-99, \$114,212.46

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Westamerica Graphics Corporation, 156032

10-1-98 to 12-31-01, \$78,825.27

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Space Systems/Loral, Inc., 221261

7-1-99 to 6-30-02, \$618,609.11

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

C-P Manufacturing, Inc., 221391

7-1-01 to 12-31-01, \$66,916.60

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

The Chalone Wine Group, Ltd., 220696

7-1-99 to 9-30-02, \$177,986.42

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

The Picture People, Inc., 173031

4-1-99 to 6-30-02, \$94,991.39

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

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Beringer Blass Wine Estates Company, 184494

10-1-97 to 9-30-01, \$469,348.60

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Buck Stove West, Inc., 191812

7-1-99 to 9-30-02, \$297,291.25

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Procter & Gamble Paper Products Company, 145340

7-1-98 to 9-30-01, \$339,835.86

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Regents of the University of California, 92868

1-1-97 to 3-31-01, \$630,177.18

Action: The Board deferred consideration of this matter.

CCH, Incorporated, 129039

7-1-98 to 6-30-99, \$148,467.45

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Sundor Brands, Inc., 145341

7-1-98 to 9-30-01, \$98,403.82

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Salomon Smith Barney, Inc., 218453

10-1-98 to 6-30-00, \$52,039.74

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105. Ms. Mandel not participating.

Leasetec Corporation, 184050

10-1-97 to 12-31-00, \$143,244.21

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Cooper Turbocompressor, Inc., 187588

1-1-02 to 3-31-02, \$69,422.76

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Wednesday, August 6, 2003

Michaels Stores, Inc., 220321

7-1-97 to 6-30-00, \$100,912.52

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Franklin Bank of California, 145290

7-1-98 to 3-31-02, \$251,596.71

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Kellogg Company, 145374

7-1-98 to 12-31-99, \$137,142.91

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Metropolitan Life Insurance Company, 196134

7-1-99 to 9-30-02, \$240,638.70

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Delaware Ariba, Inc., 206147

1-1-02 to 9-30-02, \$188,572.08

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Pacifica Mart LLC, 220322

7-1-99 to 6-30-02, \$66,236.17

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Chrysler Financial Company LLC, 75827

10-26-98 to 11-30-01, \$1,571,302.45

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

APC Sales & Service Corporation, 161846

1-1-00 to 12-31-01, \$172,857.86

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

CVHS Hospital Corporation, 143956

10-1-98 to 12-31-02, \$82,392.56

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Wednesday, August 6, 2003

Siemens Info & Commctn Mobile LLC, 87589

1-1-99 to 12-31-01, \$87,252.88

Action: The Board deferred consideration of this matter.

PSI Management Team, Inc., 220695

7-1-99 to 9-30-02, \$157,203.50

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Airfiber, Inc., 207821

1-1-00 to 3-31-02, \$164,634.56

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Plumtree Software, Inc., 144470

1-1-00 to 12-31-01, \$128,620.71

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Conseco Finance Corporation, 194226

1-1-98 to 12-31-02, \$1,098,373.00

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Sunkist Growers, Inc., 220831

1-1-99 to 6-30-02, \$101,714.77

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

The Procter & Gamble Distributing Company, 145343

7-1-98 to 9-30-01, \$92,475.20

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Mervyn's, 206937

1-1-02 to 3-31-02, \$62,841.44

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

The Fifth Third Leasing Company, 152348

7-1-00 to 3-31-01, \$68,293.15

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Wednesday, August 6, 2003

Kia Motors America, Inc., 221259

4-1-97 to 9-30-02, \$62,148.66

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

U.S. Natural Resources, Inc., 101440

7-1-98 to 3-31-99, \$424,324.74

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Stoll America Knitting Machinery, Inc., 194657

4-1-00 to 6-30-02, \$69,288.52

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Aramark Correctional Services, Inc., 205925

4-1-02 to 6-30-02, \$52,352.56

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Tanimura & Antle, Inc., 63148

1-1-97 to 12-31-99, \$302,448.73

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Ceramic Tile Pour La Maison, 220760

10-1-99 to 12-31-02, \$54,525.87

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Progressive Casualty Insurance Company, 131259

1-1-98 to 12-31-01, \$112,112.57

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Consumer Portfolio Services, Inc., 220503

7-1-98 to 12-31-02, \$3,030,379.68

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

First Merchants Acceptance Corporation, 220501

1-1-97 to 3-31-02, \$178,140.62

Action: Approve the refund as recommended by staff. Mr. Parrish not participating in accordance with Government Code section 87105.

Wednesday, August 6, 2003

SPECIAL TAXES MATTERS, REDETERMINATIONS, CONSENT

With respect to the Special Taxes Matters, Redeterminations, Consent Agenda, upon a single motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

California Department of Transportation, 209020

1-1-00 to 12-31-01, \$67,349.70

Action: Approve the redetermination as recommended by staff.

SPECIAL TAXES MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

With respect to the Special Taxes Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Chiang, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 on *Pacific National Insurance Company, 220989; Great Northern Insured Annty. Corporation, 214558; SCPIE Indemnity Company, 214545; and, Freeman Catherine Alice, 220199*; the Board made the following orders:

Union Pacific Railroad Company, 222566

1-1-97 to 12-31-97, \$58,837.42

Action: Approve the credit and cancellation as recommended by staff.

Grocers Specialty Company, 222213

7-26-03 to 8-25-03, \$62,977.96

Action: Approve the refund as recommended by staff.

Pacific National Insurance Company, 220989

1-1-00 to 12-31-00, \$130,400.00

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Great Northern Insured Annty. Corporation, 214558

1-1-98 to 12-31-98, \$66,348.88

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

SCPIE Indemnity Company, 214545

1-1-98 to 12-31-98, \$58,331.05

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Wednesday, August 6, 2003

Freeman Catherine Alice, 220199

1-1-03 to 12-31-03, \$99,672.44

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

PROPERTY TAX MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

With respect to the Property Taxes Matters Not Subject to Contributions Disclosure Statute Agenda, upon a single motion of Mr. Chiang, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

Unitary Escaped Assessments

01 Communications, Inc. (7791)

2002, \$1,460,000.00 Value, \$146,000.00 Penalty, \$87,600.00 In-Lieu Interest

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

HighSpeed Communications of CA, LLC (7778)

2003, \$456,000.00 Value, \$45,600.00 Penalty

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Enhanced Global Convergence Services, Inc., (7855)

2003, \$373,000.00 Value, \$37,300.00 Penalty

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Vectren Communication Services, Inc., (7920)

2003, \$105,000.00 Value, \$10,500.00 Penalty

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Tecnet, Inc., (7928)

2003, \$6,180,000.00 Value, \$618,000.00 Penalty

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Yipes Enterprise Services, Inc., (7972)

2003, \$7,710,000.00 Value, \$771,000.00 Penalty

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Wednesday, August 6, 2003

**LOCAL TAX REALLOCATION MATTER NOT SUBJECT TO CONTRIBUTION
DISCLOSURE STATUTE**

Janice Thurston, Assistant Chief Counsel, Business Taxes Division, Legal Department, made introductory remarks regarding the Local Tax Reallocation Matter, *City of Laguna Hills, 203006*. Ms. Thurston stated for the record that it was her understanding from a conversation that morning with Al Koch of MBIA Muniservices/MRC that the cities had come to a verbal agreement and wished to withdraw all the cities' petitions from the Board's consideration.

Speakers: Robert Cendejas, Attorney, Representing City of Ontario, stated that the city had come to a verbal agreement and wishes to withdraw its petitions.

City of Laguna Hills, 203006

7-1-94 to 12-31-98, \$1,635,245.00

Action: Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang not participating, the Board dismissed the appeal.

CHIEF COUNSEL MATTERS

RULEMAKING

Request for Adoption of Revised Language to Property Tax Rule

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Division, Legal Department, made introductory remarks regarding the adoption of proposed amendments to *Rule 462.240, The Following Transfers do not Constitute a Change in Ownership*.

Speakers: Daniel Roth, President, Stonewall Democratic Club of Greater Sacramento, spoke in favor of the adoption of the rule and thanked the Board for its efforts.
Sam Catalano, Treasurer, Stonewall Democratic Club of Greater Sacramento, spoke in favor of the adoption of the rule and thanked the Board for its efforts.

Action: Upon motion of Mr. Chiang, seconded by Ms. Mandel and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board adopted the revised language to *Rule 462.240, The Following Transfers do not Constitute a Change in Ownership* (Exhibit 8.1).

Exhibits to these minutes are incorporated by reference.

Wednesday, August 6, 2003

Request for Adoption of Revised Language to Sales and Use Tax Regulation

Janice Thurston, Assistant Chief Counsel, Business Taxes Division, Legal Department, made introductory remarks regarding the adoption of proposed amendments to *Regulation 1802, Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*.

Speakers: Al Koch, General Tax Counsel, MBIA, spoke in favor of the adoption of the revised language to the regulation.
Robert Cendejas, Attorney, Representing City of Long Beach, Fremont and Signal Hill, spoke in favor of the adoption of the revised language to the regulation.

Action: Upon motion of Ms. Mandel, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board adopted the revised language to *Regulation 1802, Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes* (Exhibit 8.2).

Request for Authorization to Publish Amendments to Sales and Use Tax regulation

Janice Thurston, Assistant Chief Counsel, Business Taxes Division, Legal Department, made introductory remarks regarding the *Regulation 1591, Medicines and Medical Devices*.

Speakers: Eric Miethke, Attorney, Nielsen Merksamer, spoke in support of the staff proposed language but would like to continue working with staff regarding the operative date.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board authorized publication of *Regulation 1591, Medicines and Medical Devices* (Exhibit 8.3).

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

The Board deferred consideration of the following: May 6, 2003 and May 28, 2003 Minutes.

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Chiang, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Wednesday, August 6, 2003

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 8.4).

Sondra Merson, Computer Operations Supervisor, Media Handling Unit,
Technology Services Division, Headquarters

Action: Approve the Board Meeting Minutes of June 10-11, and June 25, 2003.

Action: Approve Section 6355, Coins and Bullion Bulk Sale Adjustment (Exhibit 8.5).

Action: Adopt 2003-04 Emergency Telephone Users Surcharge Rate (Exhibit 8.6).

Action: Approve extensions of time to complete and submit 2003-04 Local Assessment Rolls pursuant to Revenue and Taxation Code section 155 granted to Stanislaus County (Exhibit 8.7).

ANNOUNCEMENT OF CLOSED SESSION

The Board recessed at 11:24 a.m. and reconvened immediately in closed session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

CLOSED SESSION

The Board met to discuss pending litigation (Govt. Code § 11126(e)), settlements (Revenue and Taxation Code sections 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126(a)).

The Board recessed at 11:59 a.m. and reconvened immediately in open session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

The Board recessed at 12:00 p.m. and reconvened at 12:03 p.m. with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

FINAL ACTION ON PETITIONS HEARD AUGUST 6, 2003

Mr. Parrish moved in the petition of *Technichem, Inc.*, 186397, 127702, to cancel the late payment penalty, otherwise redetermine as recommended by the Appeals Division. The motion failed for lack of a second.

Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Wednesday, August 6, 2003

Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition of *MV Transportation, Inc.*, 136040, 136141, 136097, be granted and the tax be redetermined accordingly.

The Board adjourned at 12:05 p.m.

The foregoing minutes are adopted by the Board on September 24, 2003.